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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/582,095	06/08/2006	Alberto Cervera Sabater	600.007	1566
58152                      7590                      04/14/2008 DEFILLO & ASSOCIATES, INC. P.O. Box 14104 Clearwater, FL 33766				
EXAMINER				
MAL HAO D				
ART UNIT		PAPER NUMBER		
3732				
MAIL DATE		DELIVERY MODE		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/582,095

**Applicant(s)**

SABATER, ALBERTO CERVERA

**Examiner**

HAO D. MAI

**Art Unit**

3732

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 1-3 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06/08/2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Specification***

1. The abstract of the disclosure is objected to because it contains legal phraseology, such as "means" and "said". Correction is required. See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 1-3** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims currently are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. For example, it is not clear what are being claimed by "of the ones that have..." (page 9 line 4), "a groove's body" (page 9 line 8), etc. The claims are also indefinite because of numerous lack of antecedent bases; for example, the recited limitations "said crease body" (page 9 line 19), "the sides" (page 9 line 24), etc, lack antecedent bases. The claims are being rejected under prior arts as best understood.

Furthermore, claim 1 recites "wherein the body's assembly with the closure element is produced by the placing..." (page 10 lines 7-9); claim 2 recites "a retention bar or stick can be welded-on..." (page 10 line 13). The recitations seem to pertain to steps for a method or process, rendering the claims indefinite and do not further limit the claim(s) since the claim(s) are for an apparatus.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Orikasa (2003/0039938 A1) in view of Hanson (4248588).**

Orikasa discloses a self ligating bracket comprising: a body having a platform 11 and a grooved body 12; and a closure element 20 (Fig. 1). The platform 11 is shown to be composed of: a dental surface with a rounded surface capable of being adapted to a tooth; a mesial surface, a distal surface, a gingival surface, and an occlusal surface, all of them flat with rounded edges on their joints or unions; and a mostly flat labial surface 11A having a wedge-shaped retention clip/central foot 18A overtop it (Fig. 1). The grooved body is shown to be composed of: a dental wall joined in its central portion/foot 18A to the labial surface of the platform 11 leaving a pair of guides free 14 between the external part of the dental wall and the labial surface which stretch along the sides of the labial surface; a gingival wall (Fig. 1); and an occlusal wall that stretches in occlusal direction to form an occlusal flange (shown at reference 12 in Fig. 3). The closure element 20 is shown to be composed of: a body having a locking cap surface (shown as reference 21A in Fig. 1) and closing buffer (shown as reference 24 in Fig. 2), a gingival flange 21, and a hooking notch 22; and two long polygonal-shaped several runners 24 (Figs. 1-2). In an alternative embodiment, Orikasa discloses a bar or stick 220 that is capable of being welded on the hooking notch of the runner (Figs. 10B). The labial surface and grooved body are inherently capable of being turned 180 degrees with respect to any axis.

Orikasa discloses the invention substantially as claimed. However, Orikasa fails to disclose the platform 11 having cementing slots for joining it to the tooth. Hanson discloses a self-ligating bracket comprising a platform 26 having cementing slots/recesses 30. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Orikasa by including the cementing slots to the platform in order to achieve an effective and sturdy attachment to the tooth as explicitly taught by Hanson.

**5. Claims 1-3 are further rejected under 35 U.S.C. 103(a) as being unpatentable over Hanson (4248588).**

Hanson discloses a self-ligating bracket comprising: a body having a platform/pad 26 and a grooved body 20; and a shutting or closure element/retainer 48 (Fig. 2, 3, 9). The platform/pad 26 is shown to be composed of: a dental surface 28 which is rounded shaped capable of adapting to the tooth and having cementing slots/recesses 30 capable of joining to the tooth (Figs. 3, 9); a mesial surface, a distal surface, a gingival surface, and an occlusal surface, all of them flat and with rounded edges on the joints or unions; and a labial surface 72, mostly flat, where a wedge-shape retention clip/engaging surface 36/66 overtops from it (Figs. 7, 9). The grooved body 20 is shown to be composed of a dental wall 24 joined to the platform leaving a pair of guides/flanges 22, a gingival wall, and an occlusal wall (Fig. 3). The closure element 48 is disclosed to be composed of a body 50 formed by a flat surface on its occlusal side that constitutes a buffer surface 54, a gingival flange 58, and a hooking notch 68 (Fig. 2). The closure element 48 further comprises a locking cap 58 extending from the labial surface of the closure element 48 (Fig. 2); and one runner 52. The labial surface and the grooved body are inherently capable of being turned 180 degrees with respect to any axis.

Hanson discloses the invention substantially as claimed. However, Hanson discloses only one runner 52 instead of several runners as claimed. It would have been obvious to one

Art Unit: 3732

having ordinary skill in the art at the time the invention was made to modify Hanson by splitting the one runner into two or more smaller runners, in order to save material and thus manufacturing cost. Such modification is obvious since it is merely a design choice well within the skills of an artisan.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HAO D. MAI whose telephone number is (571)270-3002. The examiner can normally be reached on Monday-Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached on (571) 272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/H. D. M./  
Examiner, Art Unit 3732

**/John J Wilson/  
Primary Examiner, Art Unit 3732**